105.

SUPREME COURT OF THE UNITED STATES.

No. 16.

JOSEPH GRANT ET AL., PLAINTIFFS,

VERSUS

E. AND H. RAYMOND.

CERTIFICATE OF DIVISION IN OPINION OF THE JUDGES OF THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Title	1	1
Verdict for plaintiffs	1	1
Letters patent to Joseph Grant for an improvement, &c	1	1
Schedule referred to in the said letters	3	2
Cancellation of former patent	8	4
Exhibit D	8	4
Exhibit E, petition of Joseph Grant and Solomon Townsend	9	5
Defendants' objection to the power of the Secretary to cancel a patent, or to grant a second one for the same, &c	11	5
Decision of the court that the Secretary possessed the said power	11	6
Defendants' fourth plea, averring that the specifications are defective, &c	11	6
Replication and issue	12	6
Motion for new trial	14	7
Points of division	14	7

CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN THE SECOND CIRCUIT.

Joseph Grant and Solomon Townsend, vs. *Eliakim Raymond and Henry Raymond.*

This action was brought to recover damages for an alleged infringement of a patent. The cause was tried in November, in the year of our Lord one thousand eight hundred and twenty-eight, and a verdict was found for the plaintiffs for three thousand two hundred and sixty-six dollars and sixty-six cents.

On the trial of the cause, the counsel for the plaintiffs produced and read in evidence certain letters patent, and a specification annexed thereto, being the patent declared on in said cause, and bearing date on the twenty-eighth day of April, in the year one thousand eight hundred and twenty-five, in the words and figures following, that is to say:

The United States of America to all to whom these letters patent shall come:

Whereas Joseph Grant, a citizen of the United States, hath alleged that he has invented a new and useful improvement in the mode of manufacturing hat bodies, by the combination of motions, viz: the rotary and revolv-

But whether or not, upon the whole matters aforesaid, by the jurors aforesaid, in form aforesaid, found, the said Peter McCartee is guilty of the trespass and ejectment above mentioned, the jurors aforesaid are ignorant; and therefore they pray the advice of the said circuit court of the United States of America for the southern district of New York, in the second circuit; and if, upon the whole matter aforesaid, it shall seem to the said court that the said plaintiff is entitled to the possession of the said land and premises claimed by the plaintiff in this suit, or of any part thereof, then the jurors aforesaid, upon their oath aforesaid, say, that the said Peter McCartee is guilty of the trespass and ejectment aforesaid, in manner and form as the said James Jackson hath above thereof complained against him; and in that case they assess the damages of the said James Jackson, on occasion of the trespass and ejectment aforesaid, besides his costs and charges by him about his suit in that behalf expended, to six cents, and for his costs and charges to six cents.

But if, upon the whole matter aforesaid, it shall seem to the said court that the plaintiff is not entitled to the possession of the said land and premises so claimed by the plaintiffs as aforesaid, nor of any part thereof, then the jurors aforesaid, upon their oath aforesaid, say that the said Peter McCartee is not guilty of the trespass and ejectment aforesaid, in manner and form as the said James Jackson hath above thereof complained against him.

And at the October term of said court, eighteen hundred and twenty-nine, before the Honorable Smith Thompson and the Honorable Samuel R. Betts, the Judges of the said court, at the City Hall of the city of New York, this cause came on for argument upon the said special verdict.

And at the said argument before the said Judges, it was contended by the plaintiff's counsel, on his part, that the said lessors, Bella Cohen and Rhina Mordecai, were capable of taking the premises described in said special verdict, whereof the said Philip Jacobs died seized, as therein stated, as heirs at law of the said Jacobs, and his said child; and that the said estate descended and came to the said Bella and Rhina, notwithstanding the alienism of the mother of the said Philip Jacobs, and his maternal uncle, Leipman Cohen, and their father; but on the part of the defendant, it was contended by his counsel, that, by reason of the said alienism of the said mother of the said Philip Jacobs, and his said maternal uncle, the said estate did not descend and come to Bella Cohen and Rhina Mordecai; and upon this question, which thus occurred before the said court, the opinions of the said Judges were opposed; and upon request of the counsel for the plaintiff, the point on which said disagreement happened is stated as above set forth, under the direction of the said Judges, in order to be certified to the Supreme Court of the United States.

All which is hereby certified, according to the form of the statute of the United States of America in such case made and provided.

In witness whereof, I, Frederick J. Betts, clerk of the said circuit court, have hereunto set my hand and affixed the seal of the said court, this nineteenth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, and of the independence of the United States the fifty-fourth.

[L. S.] FREDERICK J. BETTS, *Clerk.*

105.

SUPREME COURT OF THE UNITED STATES.

No. 16.

JOSEPH GRANT ET AL., PLAINTIFFS,

VERSUS

E. AND H. RAYMOND.

CERTIFICATE OF DIVISION IN OPINION OF THE JUDGES OF THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Title	1	1
Verdict for plaintiffs	1	1
Letters patent to Joseph Grant for an improvement, &c	1	1
Schedule referred to in the said letters	3	2
Cancellation of former patent	8	4
Exhibit D	8	4
Exhibit E, petition of Joseph Grant and Solomon Townsend	9	5
Defendants' objection to the power of the Secretary to cancel a patent, or to grant a second one for the same, &c	11	5
Decision of the court that the Secretary possessed the said power	11	6
Defendants' fourth plea, averring that the specifications are defective, &c	11	6
Replication and issue	12	6
Motion for new trial	14	7
Points of division	14	7

CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN THE SECOND CIRCUIT.

Joseph Grant and Solomon Townsend, vs. *Eliakim Raymond and Henry Raymond.*

This action was brought to recover damages for an alleged infringement of a patent. The cause was tried in November, in the year of our Lord one thousand eight hundred and twenty-eight, and a verdict was found for the plaintiffs for three thousand two hundred and sixty-six dollars and sixty-six cents.

On the trial of the cause, the counsel for the plaintiffs produced and read in evidence certain letters patent, and a specification annexed thereto, being the patent declared on in said cause, and bearing date on the twenty-eighth day of April, in the year one thousand eight hundred and twenty-five, in the words and figures following, that is to say:

The United States of America to all to whom these letters patent shall come:

Whereas Joseph Grant, a citizen of the United States, hath alleged that he has invented a new and useful improvement in the mode of manufacturing hat bodies, by the combination of motions, viz: the rotary and revolv-

ing motion, with the vibrating or transverse motion, which forms the two hat bodies by machinery, and crosses the wool from one extremity of the hat bodies to the other at one operation, called Grant's improved winding machine for setting up hat bodies—his former patent for the same invention, dated the 11th day of August, 1821, having been cancelled, owing to the defective specification on which the same was granted—which improvement he states had not been known or used before his application—hath made oath that he does verily believe that he is the true inventor or discoverer of the said improvement; hath paid into the Treasury of the United States the sum of thirty dollars, delivered a receipt for the same, and presented a petition to the Secretary of State, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose;

These are, therefore, to grant, according to law, to the said Joseph Grant, his heirs, administrators, or assigns, for the term of fourteen years, from the eleventh day of August, one thousand eight hundred and twenty-one, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Joseph Grant himself in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given under my hand, at the city of Washington, this twenty-eighth day of April, in the year of our Lord one thousand eight hundred and twenty-five, and of the independence of the United States of America the forty-ninth.

[L. S.] J. Q. ADAMS.

By the President:
H. CLAY, *Secretary of State.*

CITY OF WASHINGTON, *to wit:*

I do hereby certify, that the foregoing letters patent were delivered to me on the twenty-eighth day of April, in the year of our Lord one thousand eight hundred and twenty-five, to be examined; that I have examined the same, and find them conformable to law; and I do hereby return the same to the Secretary of State within fifteen days from the date aforesaid, to wit, on this twenty-eighth day of April, in the year aforesaid.

WILLIAM WIRT,
Attorney General of the U. S.

The schedule referred to in these letters patent, and making part of the same, containing a description, in the words of the said Joseph Grant himself, of his improvement in the mode of manufacturing hat bodies by the combination of motions, viz: the rotary or revolving motion, with the vibrating or transverse motion, which forms the two hat bodies by machinery, and crosses the wool from one extremity of the hat bodies to the other at one operation, called Grant's improved winding machine for setting up hat bodies, his former patent for the same invention, dated on 11th day of August, A. D. 1821, having been cancelled, owing to the defective specification on which the same was granted.

106.

To all persons to whom these presents shall come: Joseph Grant, of Providence, in the county of Providence, and State of Rhode Island, hatter, sends greeting:

Be it known, that I, the said Joseph Grant, have invented, constructed, made, and applied to use, a new and useful improvement, called "Grant's improved winding machine for setting up hat bodies," specified in the words following, to wit: This improvement consists in a combination of motions, viz: the rotary or revolving motion, with the vibrating or transverse motion, which winds and forms two hat bodies, and crosses the wool from one extremity of the hat bodies to the other at one operation, as follows: a frame, the front side of which forms an obtuse angle, the opposite side forms the sixth part of a circle, the ends of each secured by an upright, is placed in front of and opposite to the finishing daffer of a carding machine of the common construction, and connected with the carding machine by bands, as hereafter mentioned and described; this frame supports four frustums of cones, placed two by two, forming an obtuse angle down, with their bases inward, supported with proper bearings at each end; these four frustums of cones receive and support two cones, with their bases in contact, of proper size and shape to form the hat bodies: the whole is suspended by a semicircular rod, each end of which is fixed in the frame, and traverses on a swivel in the centre of the arc of the semicircle, and secured above. The frame also rests and traverses on a pivot under and in the centre of two whirls hereafter mentioned. The rotary or revolving motion is produced by a band from the carding machine, passing between and around two horizontal whirls, alluded to before, which are in front of the frame; another whirl or pulley is fixed on the same shaft, and above one of the beforementioned two whirls, (immaterial which;) around this pulley passes a band to another whirl, near the centre of the frame; above and on the same shaft of this last mentioned whirl is a pinion wheel, which gears into a bevel wheel, that is secured to the base of one of the front frustums of cones: this bevel wheel gears into another, secured to the base of the opposite frustum of a cone; this gives the rotary or revolving motion to the two cones on which the hat bodies are formed. The vibrating or transverse motion is produced by a second band from the carding machine, passing round a horizontal pulley; below this pulley, on the same shaft, is a pinion wheel, which gears into a large horizontal wheel, near the edge and on the upper side of which is a pivot, which passes through the end of a lever. The other end of this lever is a pivot, which turns down and enters a brace; and this brace having several holes at proper distances from each other, serves as the first regulator, and is confined in the front and under one side of the frame, opposite the large horizontal wheel last mentioned; this lever gives the vibrating or traverse motion to the frame. The large horizontal wheel last mentioned is so placed, that a line drawn from its centre to the brace in the front, and under one side of the frame, forms a right angle with the brace when the frame stands square with the carding machine. Under the last mentioned horizontal pulley is a plate of iron, which receives the lower end of the shaft of the pulley and pinion wheel; the plate of iron also supports the stud on which the large horizontal wheel turns; to this plate is attached a screw regulator, by which the large horizontal wheel is adjusted. The wool is weighed out in a sufficient quantity for two hat bodies, and, after passing through the carding machine, is received upon the two cones that form the hat bodies. By the combination of motions before mentioned,

the cones are covered from end to end, the width of the web forming the tip and band of one hat body; then crosses over and forms the band and tip of the other hat body, and at the same time places a suitable thickness in the band and square, and thinner at the tip, crossing the wool in every part of the hat bodies. The beforemen ioned four frustums of cones serve not only to put the two cones in motion, but also to press the wool to the cones. The hat bodies being thus formed, they are separated in the middle or at the base of the cones, and then slipped off; and so on with others. What I claim as my specific improvement, and for which a patent is now solicited, is the mode of crossing the wool by the traverse motion of the machine, and the revolution of the two cones, which forms the two hat bodies entire upon four or more frustums of cones at one operation, contradistinguished from the methods of Silas Mason and others, who use three cones, which have no traverse motion, and could only form one hat body (as far as the inventor is acquainted) at one operation, not crossing the wool in forming the hat body, and, moreover, leaving the one hat body which it does form imperfect, by being perforated through the crown or tip by the axis of the cone on which it is formed.

In testimony that the above is a true specification of my said improvement, as above described, I have hereto set my hand and seal, the twentieth day of April, in the year of our Lord one thousand eight hundred and twenty-five.

JOSEPH GRANT.

Witnesses,
EDWARD PEARCE,
WILLIAM H. TOWNSEND.

The counsel for the plaintiffs also produced and read in evidence a certificate of the Secretary of State, duly authenticated under his hand and official seal, and certain papers thereto annexed, in the words and figures following:

To all to whom these presents shall come, greeting:

I certify that the annexed is a true copy of the record of cancellation of a patent granted to Joseph Grant on the 11th of August, 1821, and cancelled on the 28th of April, A. D. 1825; also, that the annexed is a true copy of the petition praying for the cancellation, and the issuing of another patent for the same invention.

In testimony whereof, I, Henry Clay, Secretary of State of the United States, have hereunto subscribed my name, and caused the seal of the Department of State to be affixed. Done at the city of Washington, this 19th day of May, A. D. 1828, and of the independence of the United States of America the fifty-second.

[L. S.] H. CLAY.

(D.)

Joseph Grant, of Providence, R. I., citizen, made oath; improvement; being a method by machinery of setting or putting up hats. Date of the patent, sent to the Attorney General, returned from ditto, August 11th, 1821. Schedule head the same as the title sent to him as above. N. B. This patent was returned to the Patent Office, the seal broken, and now stands can-

107.

celled, owing to the defective specification on which it was issued, and another patent granted (with a corrected specification) on the 28th day of April, 1825, bearing date with the first, and for the same invention.

(E.)

The petition of Joseph Grant, of Providence, in the county of Providence, and State of Rhode Island, hatter, a citizen of the United States of America, respectfully represents, that your petitioner has invented a new and useful improvement in the mode of manufacturing hat bodies by the combination of motions, viz: the rotary or revolving motion with the vibrating or traverse motion, which forms the two hat bodies by machinery, and crosses the wool from one extremity of the hat bodies to the other at one operation, called "Grant's improved winding machine for setting up hat bodies," according to the specification, explanations, and drawings, herewith presented; which the subscriber prays may be taken as a part of his petition—an improvement not used or known before his application, the advantages of which your petitioner is desirous of securing to himself and his legal representatives.

Your petitioner would further state, that he has heretofore, viz. on the 11th day of August, A. D. 1821, obtained letters patent from the President of the United States for his said improvement, but, owing to a defective specification on which the same were granted, he prays that the said patent may be cancelled, and a new and correct one granted, embracing the same improvements, so far as the same are set forth in the accompanying specification, drawing, and explanations. Your petitioner therefore prays that letters patent of the United States may be issued, granting to your petitioner, his heirs, administrators, or assigns, the full and exclusive right of making, constructing, using, and vending to others to be used, his said improvement, according to the specification and drawings hereto annexed, agreeably to the acts of Congress in such case made and provided; your petitioner having paid thirty dollars into the Treasury of the United States, and complied with other provisions of said act. As in duty bound, will ever pray.

JOSEPH GRANT.

To the Hon. HENRY CLAY,
Secretary of State of the United States of America.

PROVIDENCE, *April* 20, 1825.

As the assignee of David Curtis, who was the assignee of Joseph Grant, of one moiety of the original patent, I unite in the prayer of the above petitioner, that the original patent may be cancelled, and a new one granted to the said Joseph Grant, as above set forth.

SOLOMON TOWNSEND.

To the Hon. HENRY CLAY,
Secretary of State of the United States of America.

PROVIDENCE, *April* 20, 1825.

The counsel for the defendant objected that the Secretary of State had no power, by law, to accept a surrender of and to cancel said letters patent, or to inquire into or decide upon the causes for so doing, or to grant said second patent for the same invention, with an amended specification, for the unex-

pended portion of the term of fourteen years, which had been granted by the first patent.

The court decided that such surrender might be made when the defect in the specification arose from inadvertence or mistake, and without any fraud or misconduct on the part of the patentee; and that the Secretary of State had authority to accept such surrender, and cancel the record of the patent, and to issue a new patent for the unexpired part of the fourteen years granted under the old patent in manner aforesaid. To which decision the counsel for the defendant excepted.

The fourth plea filed on the part of the defendant, after reciting the specification annexed to the patent of the plaintiffs, averred as follows: "And the defendants aver that said specification does not correctly or accurately describe the improvement claimed by the said Joseph Grant as his invention; but said specification, and the drawings thereto annexed, are altogether defective in this, among other things, namely: In said specification no proportions, sizes, or distances, are given, and the bigness or size of none of the principal parts of said machine is given in said specifications or drawings, but the same is wholly omitted; and, in other particulars, said specification and drawings are altogether defective. And the defendants aver that said specification, annexed to and making part of said letters patent, with the drawings thereto annexed, do not contain a written description of his the said Joseph Grant's invention and improvement aforesaid, and manner of using it, in such full, clear, and exact terms as to distinguish the same from all other things before known, and so as to enable any person skilled in the art of which said machine or improvement is a branch, or with which it is most nearly connected, to make and use the same; and that, for the cause aforesaid, said letters patent are void. All which the defendants are ready to verify; wherefore they pray judgment if the said Joseph Grant and Solomon Townsend ought to have or maintain their aforesaid action against them, and for their costs." To which plea the following replication was filed:

And as to the said plea of the said Eliakim Raymond and Henry Raymond, by them fourthly above pleaded, the said Joseph Grant and Solomon Townsend say, that, by reason of any thing in the said last mentioned plea alleged, they ought not to be barred from having and maintaining their aforesaid action thereof against them the said Eliakim Raymond and Henry Raymond, because they say that the specification mentioned in the said last mentioned plea does correctly and accurately describe the improvement claimed by the said Joseph Grant as his invention; and because they say further, that neither the said specification, nor the drawings thereto annexed, are defective in any of the particulars in that behalf alleged in the said last mentioned plea; and this they, the said Joseph Grant and Solomon Townsend, pray may be inquired of by the country; and the said Eliakim Raymond and Henry Raymond do the like, &c.

The counsel for the defendants on the said trial introduced sundry witnesses to prove the allegations traversed in the said fourth plea, and insisted that they had proved the same, and that the said specification of the said Joseph Grant did not describe the improvement which he claimed to have invented, in such full, clear, and exact terms as to distinguish the same from all other things before known, nor so as to enable a person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make and use the same; and they requested the court to charge

the jury, that, if they found that the defendants had maintained and proved their averments in that respect, that they must find the same for the defendants; which instructions the court refused to give, but instructed the jury that the patent would not be void on this ground, unless such defective or imperfect specification or description arose from design, and for the purpose of deceiving the public; to which opinion the counsel for the defendants also excepted. A bill of exceptions was made by the counsel for the defendants, and the cause came on for argument, upon a motion for a new trial, on the day of November, in the year one thousand eight hundred and twenty-nine, at the City Hall of the city of New York, before the Honorable Smith Thompson and the Honorable Samuel R. Betts, the Judges of the said court, upon the questions presented by the decisions of the court, excepted to on the trial of the cause, as hereinbefore stated. Upon the said questions thus occurring before the said court, the opinions of the said two Judges were opposed; and, upon request of the counsel for the plaintiffs, the points upon which the said disagreement happened is here stated in manner aforesaid, under the direction of the said Judges, and certified under the seal of the said court to the Supreme Court, at their next session, to be held at the city of Washington on the second Monday of January, in the year of our Lord one thousand eight hundred and thirty.

FREDERICK J. BETTS, *Clerk.*